

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

IN THE MATTER OF: )  
 )  
DAVID H. CLOUD, JR. ) CASE NO. 05-11426  
 )  
Debtor )

**DECISION AND ORDER DENYING CONFIRMATION**

At Fort Wayne, Indiana, on December 6, 2005.

By the court's order of September 6, 2005, the parties were directed to file a joint pretrial order within sixty days regarding confirmation and the objections thereto filed by the chapter 13 trustee and Three Rivers Federal Credit Union. On November 2, 2005, the debtor moved for an extension of that deadline. The motion was objected to, and, by an order dated November 18, 2005, the court sustained the objection and directed the parties to file a joint pretrial order within eight days. The order also stated that the failure to do so would result in the objections to confirmation being sustained and confirmation denied.

On November 23, 2005, the parties filed a proposed pretrial order. But, what they filed fails to demonstrate any need for a trial. A pretrial order is supposed to contain each parties' theory of the case and the facts they hope to prove in support thereof, together with a list of the witnesses and exhibits with which they plan on doing so. See, N.D. Ind. L.B.R. B-7016-1(c)(4), (8), (9). The pretrial order provides all of this information where the trustee and the Credit Union are concerned, but it is completely silent as to the debtor's position regarding confirmation, its contentions, witnesses and exhibits. Apparently, the debtor has nothing to say in support of confirmation and nothing with which to say it. As the debtor bears the burden of proving that its proposed plan should be confirmed, Matter of Jones, 119 B.R. 996, 998 (Bankr. N.D. Ind. 1990); In re Standfield, 152 B.R.

528, 534 (Bankr. N.D. Ill. 1993), if it has nothing to say on the plan's behalf confirmation should be denied.

The objections to confirmation filed by the trustee and Three Rivers Federal Credit Union are sustained and confirmation of the currently proposed plan is denied. Any further plan must be filed within fourteen days.

SO ORDERED.

/s/ Robert E. Grant  
Judge, United States Bankruptcy Court